HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.32989 of 1998

Dated 17th day of April, 2007

Between:

D. Nageswara Rao and five others ..
Petitioners

And

The Mandal Revenue Officer,
Chimakurthy Mandal, Prakasham District.
and two others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondents in trying to evict the petitioners from the land of an extent of Ac.7.04 cents in S.No.12 situated in Pallamalli village, as arbitrary and illegal.

The brief facts of the case are that the petitioners occupied the agricultural land of an extent of Ac.7.04 cents in S.No.12 situated in Pallamalli village, Chimakurthy Mandal, Prakasam District and they have been in possession and enjoyment of it from time immemorial and regularly paying land revenue to the Government. The adangals issued by the Village Administrative Officer also establish their possession. Now, their grievance is that the respondents, without issuing any notice, are trying to dispossess them from the land in question.

A detailed counter affidavit is filed wherein it is stated that the land of an extent of Ac.7.04 cents in S.No.12 is classified as kunta poramboke in village accounts and it has been lying vacant for a long time without being cultivated or encroached by anybody. As per the instructions of the Government, no pattas or encroachments should be entertained in kunta poramboke lands inasmuch as the Government imposed ban on encroachments, etc. in such lands. Thus, the contention of the petitioners that the land in question is in their possession from time immemorial, is not correct.

Heard the learned counsel for both the parties.

In the light of the disputed question of fact, this Court, in the normal circumstances, would have dismissed the writ petition, but the learned counsel for the petitioners has drawn my attention to the land

revenue receipts and 10(1) adangals wherein the names of the petitioners are shown. In 10(1) adangal, it is clearly mentioned that the owners are the possessors of the land of an extent of Ac.7.04 cents in S.No.12. Further, the Village Administrative Officer also gave land revenue receipts. This clearly establishes that the petitioners are in continuous possession of the land. Having regard to the same, even if the land in question is a kunta poramboke and the alleged possession is illegal, still the petitioners are entitled to a notice as provided under Section 7 of the Land Encroachment Act.

In the result, the writ petition is allowed and the respondents are directed not to dispossess the petitioners from the land in question without following due process of law. No costs.

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17.04.2007

bcj